
Information on Commercial Excise Tax Relief

The CARES Act included tax relief provisions for commercial operations.

The act suspends the federal excise tax (FET) on commercial use of aviation fuel and the FET assessed on the transportation of passengers and cargo.

The excise tax relief, contained in Section 4007 of the Act, is from March 28, 2020 through the end of this year.

Note: While the Act is clear on the relief provided, given the nature of the fuel supply chain for general aviation and the various booking/payment processes for air transportation providers, some additional guidance from the IRS is expected but not yet available. Until final direction from IRS is available individuals should engage their own tax professionals and fuel suppliers for specific questions. NATA offers this general information as an aid to FBOs and Part 135 carriers to help them understand the applicable aspects of this tax relief.

FET on Passenger & Cargo Transportation

The Act states, “In the case of any amount paid for transportation by air...during the excise tax holiday period, no tax shall be imposed under section 4261 or 4271 of such Code.”

The taxes suspended include:

- 7.5% tax on amounts paid for passenger transportation (\$4261)
- Passenger segment fees (\$4261)
- Passenger International Facilities Fee (\$4261)
- 6.25% tax on amounts paid for cargo transportation (\$4271)

FET on Jet Fuel

The Act suspends the taxes due on kerosene used in commercial aviation (i.e jet fuel).

The taxes for noncommercial use of jet fuel and fuel surcharges applicable to fractional program aircraft are not impacted. Taxes on aviation gasoline also remain unchanged.

The tax due for commercial jet fuel use is typically 4.4 cents/gallon (cpg). This includes a 4.3 cpg excise tax plus a 0.1 cpg tax known as the Leaking Underground Storage Tank (LUST) tax. The LUST tax is imposed separately and is excluded from the tax holiday provision. It is the 4.3 cpg tax that is lifted by the CARES Act.

Information for FBOs

Most fuel available at FBOs arrives already taxed at the noncommercial use rate.¹ Given that all noncommercial uses are still taxed and that FBOs are not generally equipped to make determinations regarding the commercial or noncommercial status of a given operation, NATA expects that they will continue to sell fuel with the taxes included. Further, most FBOs are not currently eligible to obtain refunds for the taxes paid if they wanted to offer the fuel to commercial purchasers without passing through the taxes.

¹ Due to measures known as the fuel fraud tax, noncommercial fuel is often supplied to FBOs at a rate of 24.4 cpg versus the noncommercial fuel tax due of 21.9 cpg. This discrepancy may be addressed by some FBOs who are properly registered with the IRS as ultimate vendors. Most FBOs do not have this registration and sell all fuel to users at the 24.4 cpg rate.

Information for Charter Operators

Under normal tax conditions, charter operators typically purchase all fuel at the noncommercial tax rate while keeping track of the fuel burned in commercial operations and the amount in noncommercial uses.

Since the fuel sold at most FBOs includes taxes totaling 24.4 cpg, and the tax for fuel used commercially is 4.4 cpg, the charter operator will file for a credit or refund with the IRS for the 20.0 cpg difference. Many obtain this credit on their quarterly excise tax filing (IRS Form 720).

Given the existing mechanism for charter operators to obtain a credit or refund when they have purchased fuel at rates higher than actually due, we expect the IRS to permit operators to use the same method to obtain the additional 4.3 cpg lifted during the tax holiday.